EL RICO GROUNDWATER SUSTAINABILITY AGENCY

RULES AND REGULATIONS

ADOPTED DECEMBER 12, 2023

ARTICLE I
DEFINITIONS

1.01. "Allocation Year" means the water year (i.e., the 12-month period beginning October 1 and ending September 30 each year). The date of the ending of the year is the date of the Allocation Year.[1]

1.02. "**Base Allocation**" means the quantity of groundwater ratably distributed to Eligible Land in an Allocation Year based on the Sustainable Yield of the Basin (consistent with Water Code Section 10721, subd. (w)) within the GSA's boundary. The quantity is initially deemed to be 0.5 acre-feet per acre of Eligible Land per Allocation Year but may be amended by the Board from time to time as more information becomes available.

1.03. "Basin" means the Tulare Lake Subbasin, as identified by the Department of Water Resources' Bulletin 118 as Groundwater Basin 5-022.12.

1.04. "Board of Directors" or **"Board"** means the Board of Directors of the El Rico Groundwater Sustainability Agency.

1.05. "De Minimis User" means a person who extracts, for domestic purposes, two acre-feet or less per year of groundwater from the Basin.

1.06. "Eligible Land" means parcels of historically irrigated land within the GSA's boundaries, designated by assessor parcel number (APN), excluding all land within the boundaries of the City of Corcoran, or owned by Tulare Lake Drainage District, as those boundaries may exist from time to time. Historically irrigated lands are lands in agricultural use, including groundwater extraction, that have been continuously enrolled with the Regional Water Quality Control Board Irrigated Lands Regulatory Program between December 31, 2015 and December 31, 2023, subject to the California General Dairy Order, or some other approved showing of agricultural usage. Eligible Land also includes land owned by a public water agency that has been used for pumping and delivery of groundwater to the landowners in that public water agency. The GSA shall maintain and update the list and map of Eligible Lands.

1.07. "El Rico GSA" or **"GSA"** means that Joint Powers Authority consisting of the City of Corcoran, the County of Kings, Alpaugh Irrigation District, Melga Water District, Lovelace Reclamation District, Salyer Water District, Corcoran Irrigation District, Tulare Lake Drainage District, and Tulare Lake Basin Water Storage District.

1.08. "Groundwater Credit" means an amount of groundwater credited to a Landowner pursuant to these Rules and Regulations, and credited to the Landowner's Watermark account, consisting of the following categories:

(a) **"Groundwater Credit (Banked)"** means an amount of water banked in the Subbasin pursuant to Article VII.

[1] For example, October 1, 2024 to September 30, 2025 is Allocation Year 2025.

(b) **"Groundwater Credit (Base)"** means any unused Base Allocation carried over from a previous Allocation Year.

(c) **"Groundwater Credit (Transitional)"** means any unused Transitional Allocation carried over from a previous Allocation Year.

1.09. "Groundwater Extraction Facility" means a device or method for extracting groundwater from within the Basin regardless of operational status.

1.10. "Groundwater Sustainability Plan" or **"GSP"** means that groundwater sustainability plan most recently adopted by the Board, as amended from time to time.

1.11. "GSP" means the Groundwater Sustainability Plan as may be amended from time to time covering El Rico GSA.

1.12. "Landowner" means a holder of title to Eligible Land, or the Landowner's duly authorized agent.

1.13. "Total Allocation" means a Landowner's combined Base Allocation and Transitional Allocation.

1.14. "Transitional Allocation" means that amount of groundwater distributed to Eligible Acres in addition to the Base Allocation as set forth in Section 3.01.

1.15. "SGMA" means the Sustainable Groundwater Management Act of 2014 (Wat. Code, § 10720 et seq.)

1.16. "Watermark" means online software contracted for by the GSA for the purpose of accounting for groundwater use.

ARTICLE II
GENERAL PROVISIONS

2.01. Authority. The GSA may adopt rules, regulations, ordinances, and resolutions for the purpose of SGMA, in compliance with any procedural requirements applicable to the adoption of the rule, regulation, ordinance, or resolution by the GSA. (Wat. Code, § 10725.2, subd. (b).)

2.02. Purpose. The purpose of these Rules and Regulations is to provide for the sustainable management of groundwater within the boundaries of the GSA.

2.03. Relationship of Rules & Regulations to GSP. The intent of these Rules and Regulations is to implement the provisions of the GSP. These Rules and Regulations may be amended at any time, as deemed necessary by the Board of Directors, to achieve consistency with that GSP and groundwater sustainability within the GSA's boundaries.

2.04. Effective Date and Changes. These Rules and Regulations shall become effective upon adoption by the Board and may be added to, amended and/or repealed at any time by later resolution of the Board with any such additions, amendments, and/or repeals becoming effective upon adoption of the resolution, or as otherwise specified by the Board. However, adoption of these Rules and Regulations will not affect the effective date of any of the GSA's policies existing as of the date the Board adopts these Rules and Regulations.

2.05. Actions Against the GSA. Nothing contained in these Rules and Regulations may be deemed a waiver by the GSA or estop the GSA from asserting any defenses or immunities from liability as provided by law, including those provided in Division 3.6 of Title 1 of the Government Code.

2.06. Severability. If any provision of these Rules and Regulations, or the application thereof to any person or circumstance, is held invalid, the remainder of these Rules and Regulations, and the application of its provisions to other persons or circumstances, shall not be affected thereby.

ARTICLE III
GROUNDWATER ALLOCATION

3.01. Allocation. From the effective date, a Landowner shall receive a Base Allocation and Transitional Allocation in each Allocation Year. Transitional Allocations shall be set by the GSA as follows:

(a) From Allocation Year 2024 through 2029, the Transitional Allocation is 1.50 acre-feet of groundwater per acre per year of Eligible Land per Allocation Year.[2]

(b) From Allocation Year 2030 through 2034, the Transitional Allocation is 1.00 acre-feet of groundwater per acre per year of Eligible Land per Allocation Year.

(c) From Allocation Year 2035 through 2039, the Transitional Allocation is 0.50 acre-feet of groundwater per acre per year of Eligible Land per Allocation Year.

(d) From Allocation Year 2040 and beyond, the Transitional Allocation is 0.00 acre-feet per acre of groundwater per acre per year of Eligible Land per Allocation Year.

3.02. Groundwater Credits. If a Landowner uses less than its Total Allocation in an Allocation Year, Landowner may carry over the amount of the unused Total Allocation to later Allocation Years as a Groundwater Credit as follows:

(a) **Groundwater Credit (Base).** If a Landowner uses less than its Base Allocation in an Allocation Year, Landowner shall receive a Groundwater Credit (Base) in the amount of the unused Base Allocation (i.e., Base Allocation less amount of groundwater pumped pursuant to Base Allocation) for use in later Allocation Years. Groundwater Credits (Base) shall remain in a Landowner's Watermark account indefinitely.

(b) **Groundwater Credit (Transitional).** If a Landowner uses less than its Transitional Allocation in an Allocation Year, Landowner shall receive a Groundwater Credit (Transitional) in the amount of the unused Transitional Allocation (i.e., Transitional Allocation less amount of groundwater pumped pursuant to Transitional Allocation) for use in later Allocation Years. Groundwater Credit (Transitional) may remain in a Landowner's GSA account for ten years commencing with the year following the Allocation Year. Any Groundwater Credit (Transitional) unused after those ten years shall be removed from the Landowner's Watermark account as of the first day of the eleventh Allocation Year after the Groundwater Credit (Transitional) is created. Notwithstanding the foregoing, all Groundwater Credit (Transitional) shall expire at the start of Allocation Year 2040.

[2] For example, if a Landowner owns 100 acres of Eligible Land, from October 1, 2023 to September 30, 2029, that Landowner shall have a Total Allocation of 200 acre-feet per Allocation Year.

3.03. Allocation Priority. The priority of groundwater use shall be as follows: (1) Groundwater Credit (Base); (2) Base Allocation; (3) Groundwater Credit (Transitional); (4) Transitional Allocation; and (5) Groundwater Credit (Banked).

ARTICLE IV
TRANSFERS

4.01. Landowner Transfers. A Landowner may transfer its Total Allocation (i.e., Base Allocation and Transitional Allocation) and any Groundwater Credit, in whole or in part, to any of Landowner's lands.

4.02. Landowner to Landowner Transfers. A Landowner may transfer its Base Allocation, Groundwater Credit (Base) and/or Groundwater Credit (Banked) to another Landowner. However, Landowner may not transfer its Transitional Allocation or Groundwater Credit (Transitional) to another Landowner.

4.03. Corcoran Irrigation District Transfers. Corcoran Irrigation District may transfer its Total Allocation (i.e., Base Allocation and Transitional Allocation) and any Groundwater Credits, in whole or in part, to any Landowner for use within Corcoran Irrigation District. Corcoran Irrigation District shall quarterly report all its transfers in writing on a GSA-approved form.

4.04. Transfer Procedure. Landowners agreeing to a transfer shall memorialize the transfer in writing on a GSA-approved form and deliver a copy to the GSA. Within 31 days of delivery of notice of a transfer between Landowners to the GSA, the transfer shall be deemed approved by the GSA and the transfer shall be reflected in the Watermark account, unless the GSA notifies the affected Landowners of its denial of the transfer. The GSA may deny a transfer only if it conflicts with these Rules and Regulations or otherwise to avoid an Undesirable Result, as that term is defined by Water Code section 10721, subdivision (w).

ARTICLE V
WATER USE MONITORING

5.01. Registration of Groundwater Extraction Facilities. Each Groundwater Extraction Facility within the GSA's boundary shall be registered with the GSA, via Watermark, within 60 days of the effective date of these Rules and Regulations. To register a Groundwater Extraction Facility, a Landowner shall provide the following information to the GSA:

(a) Assessor's Parcel Number (APN) of the Landowner(s) of the land upon which the Groundwater Extraction Facility is located and the Landowner(s) with rights to use groundwater from the Groundwater Extraction Facility.

(b) Well Completion Report, filed with the Department of Water Resources, pursuant to California Water Code section 13751, or if not available, construction information about the Groundwater Extraction Facility, including total depth of the well casing, size of the well casing, and location or depth of perforations.

(c) Location/Coordinates, parcel number, state well number/well name/well number of the Groundwater Extraction Facility.

(d) The type of installed flowmeter, or flowmeter to be installed.

5.02. Failure to Register. Any Landowner who fails to register its Groundwater Extraction Facility pursuant to Section 5.01, shall incur a penalty of up to $500 per facility, as determined by the Board.

5.03. Change in Ownership. The name of the owner of each registered Groundwater Extraction Facility, the parcel number on which the facility is located, along with the names of all Landowners with rights to each Groundwater Extraction facility shall be reported to the GSA within 60 days upon any change of ownership or right holder, together with such other information as may be required by the GSA.

In the event that a parcel of Eligible Land is transferred or sold to another Landowner during an Allocation Year, the Eligible Land will maintain any unused Total Allocation for that year granted by the GSA to the former Landowner, in addition to any Groundwater Credits that have accumulated for the parcel prior to the transfer or sale.

5.04. Installation of Flowmeter. Each Groundwater Extraction Facility within the GSA's boundary, excluding De Minimis Users, shall install a flowmeter within 60 days of the effective date of these Rules and Regulations and shall report the replacement of a flowmeter within 60 days.

5.05. Water Use Measurement. On at least a quarterly basis, Landowner shall report the monthly amount of pumping by Groundwater Extraction Facility. For a Groundwater Extraction Facility used by multiple Landowners, the Landowners shall report their respective uses separately. The reporting requirements in this Section apply to abandoned or non-operational Groundwater Extraction Facility until the Landowner submits evidence of abandonment or decommission in accordance with applicable law to the GSA.

ARTICLE VI
GROUNDWATER ACCOUNTING AND MANAGEMENT OF ALLOCATIONS

6.01. Online Water Accounting Dashboard. The GSA shall establish and maintain an online dashboard for Landowners to account for total groundwater usage and groundwater supply offsets within the GSA boundaries. The online dashboard currently contracted for by the GSA is Watermark.

6.02. Categories of Water. The online dashboard shall account for groundwater using, at a minimum, the following categories: (a) Base Allocation; (b) Transitional Allocation; (c) Groundwater Credits (Banked); (d) Groundwater Credits (Base); and (e) Groundwater Credit (Transitional). The online dashboard shall account for Total Allocation and Groundwater Credits as lump sums.

6.03. Landowner Reporting and Debiting. Within 30 days of the end of the prior quarter, each Landowner shall submit to the GSA, via Watermark, a report detailing its groundwater extractions, APN(s) where such groundwater was applied, the crop type upon which such groundwater was applied, any reported transfers and any other required information as adopted by the GSA Board. The GSA shall review each submitted report and, using Irrigation and Training Research Center's ET factors from ETc Table for Irrigation Scheduling and Design, Zone 16 ("ITRC Table"), confirm the groundwater extraction reported within 60 days. Changes may be made to the ITRC Table for new crops and crops that are known to be grown for reasons other than maximum yield. Once a Landowner's groundwater extraction has been confirmed, the GSA shall debit each Landowner's Watermark account. Bulk reporting such as by spreadsheet will be allowed via communication with Watermark for landowners with multiple APN's and/or Extraction Facilities.

ARTICLE VII
GROUNDWATER BANKING

7.01. Banking. Surface water banked within the Subbasin by a Landowner shall be credited to the Landowner's Watermark account as a Groundwater Credit (Banked), upon GSA Board approval that the water is percolated into an approved banking site within the GSA's boundaries of the Subbasin.

ARTICLE VIII
SGMA EXTRACTION CHARGES

8.01. Charge for Excess Use. Pursuant to Water Code Section 10732, the GSA may impose a charge up to $500 per acre foot against any Landowner who extracts groundwater in excess of its Total Allocation and Groundwater Credits for that Allocation Year. All charges must be paid within 30 days of issuance of an invoice for that charge by the GSA, or within any other period established by the Board. If a Charge for Excess Use is levied, then the total amount of excess water pumped above allocated amounts shall be deducted from the Total Allocation of subsequent Allocation Years. A Landowner shall not extract more than four (4) acre feet per acre of Eligible Land in any given year.

8.02. Protest of Usage Measurement and Charge Assessment. Each Landowner may protest the GSA's measurement of the Landowner's usage of water and any assessment by the GSA of a charge. The protest shall include:

(a) Name and address of the protestor,

(b) The specific decision being protested,

(c) The date of the decision,

(d) The basis or bases for the protest,

(e) The specific action which the protestor requests, and

(f) Any information or evidence relied upon to support the protest.

8.03. Procedures for Resolving the Protest. The procedures for resolving a protest are as follows:

(a) All protests must be submitted in writing to the GSA's Board no later than 30 days of receipt of billing.

(b) Within 60 days of the protest, the GSA Board shall consider the protest at a public hearing.

(c) The decision of the GSA Board shall constitute final action on the protest, subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5.

ARTICLE IX
VARIANCE PROCEDURES AND ENFORCEMENT

9.01. Variance Request. Landowner may request a variance from these Rules and Regulations. A request for a variance shall:

(a) Identify the specific Rules and Regulation that is subject of the request;

(b) The reason(s) for the request;

(c) Whether approval of the request is required to avoid physical or economic harm to Landowner and an explanation thereof; and

(d) A statement of the requested relief.

9.02. Variance Procedures. The GSA Board may grant a variance upon making the following findings:

(a) Issuing the variance will not cause or contribute to an Undesirable Result(s), as that term is defined by Water Code section 10721, subdivision (w);

(b) The actions authorized under the variance are not anticipated to cause material harm to others who have rights to use groundwater within the Basin; and

(c) The variance and the authorized actions are reasonably necessary and appropriately tailored to avoid unreasonable physical and economic harm to the Landowner.

9.03. Judicial Review. The decision of the Board of Directors shall constitute final action on the variance, subject to judicial review pursuant to California Code of Civil Procedure section 1094.5.

9.04. Enforcement; Actions By GSA. Any Landowner who violates the provisions of these Rules and Regulations may be subject to the criminal and civil sanctions set forth in SGMA. Upon the failure of any person to comply with any provision of these Rules and Regulations, the GSA may petition the Superior Court for a temporary restraining order, preliminary or permanent injunction, or such other equitable relief as may be appropriate. The right to petition for injunctive relief is an additional right to those, which may be provided elsewhere in these Rules and Regulations or otherwise allowed by law. The Landowner shall be responsible for any legal costs or fees if the GSA is successful, and the GSA may also petition the Superior Court to recover any sums due to the GSA.